

Application No. 10/005,222  
Amendment dated November 26, 2003  
Reply to Office Action of July 29, 2003

REMARKS

Reconsideration is requested.

Claims 35-46 are now presented. Claims 1-34 have been cancelled.

Claims 35-44 were added by preliminary amendment and have been examined.

Claims 45 and 46 are new. Claims 45 and 46 depend from Claim 35 and are directed to the "fifth embodiment" of the invention, illustrated in Figures 10 and 11, and described at page 7, lines 19-23; page 12, line 7, to page 13, line 22; page 17, line 11 to page 18, line 23; and page 23, line 1 to page 24, line 14 (original Claims 18-24) of Applicants' specification.

Claims 35-44 are rejected under 35 USC 103(a) as being unpatentable over Menard (U.S. Patent 6,231,554 in view of Mattingly (U.S. Patent 4,608,047). Menard issued May 15, 2001, but claims a U.S. effective filing date of September 27, 1991. Menard is only *prima facie* available as a reference under 35 U.S.C. 102(e), as a U.S. Patent issued on an application having a U.S. effective filing date of September 27, 1991, which is prior to the September 30, 1992, effective filing date of the present Application.

The Examiner has *presumed* Applicants' date of invention to be Applicants' date of constructive reduction to practice, September 30, 1992. The Examiner's presumption is rebuttable, and is in fact rebutted by Declarations Under 37 CFR 1.131 submitted herewith, which show that either (a) Applicants reduced the invention to practice in the United States prior to September 27, 1991, the effective date of Menard as a reference, or (b) Applicants conceived the invention in the United States prior to September 27, 1991, and continued activity in the United States with respect to the invention with diligence to a subsequent reduction to practice of the invention in the United States or to the filing of our Application Serial No. 07/954,524, on

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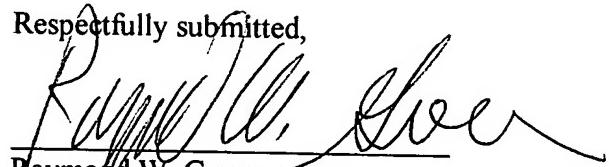
Accordingly, the rejection of Claims 35-44 under 35 USC 103(a) as being unpatentable over Menard in view of Mattingly should be withdrawn. There is no other rejection of record.

### CONCLUSION

Reconsideration, withdrawal of the rejection, and allowance of all claims now presented, namely Claims 35-46, are respectfully requested. The only rejection of record is of Claims 35-44 under 35 USC 103(a) as being unpatentable over Menard in view of Mattingly, which has been overcome by Declarations Under 37 CFR 1.131 submitted herewith, showing a date of invention prior to Menard's effective filing date.

Accordingly, the Application appears to be in condition for allowance, both as to form and over the prior art. Such action is courteously solicited.

Respectfully submitted,

  
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